

4 CSR 240-2.045 Electronic Filing

PURPOSE: This rule prescribes the procedure for electronic filing before the commission.

(1) Any item or document otherwise required or permitted to be filed with the commission may be filed electronically by accessing the commission's Internet web site and following the instructions for electronic filing found there.

(2) Any item or document filed electronically shall, if received during business hours of the commission's records room, be considered filed as of that day, otherwise, such item or document shall be considered filed as of the next following business day.

(3) The electronic filing of an item or document as described in this rule shall satisfy an obligation to file the same if accomplished no later than the date upon which such filing is required.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 7, 2001, effective May 30, 2002.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.050 Computation of Time

PURPOSE: This rule sets standards for computation of effective dates of any order or time prescribed by the commission when no specific date is set by commission order.

(1) In computing any period of time prescribed or allowed by the commission, the day of the act, event, or default shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. This rule does not apply when the commission establishes a specific date by which an action must occur, nor does it operate to extend effective dates which are established by statute.

(2) In computing the effective date of any order of the commission, the day the order was issued shall not be included, and the order is considered effective at 12:01 a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday or legal holiday.

(3) When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission, at its discretion, may—

(A) Order the period enlarged before the expiration of the period originally prescribed or as extended by a previous order; or

(B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

State ex rel. Alton R. Co. v. Public Service Commission, 536 S.W.2d 766 (Mo. 1941). The effective date of an order is at the beginning of that date, rather than at its close.

4 CSR 240-2.060 Applications

PURPOSE: Applications to the commission requesting relief under statutory or other authority must meet the requirements set forth in this rule.

(1) All applications shall comply with the requirements of these rules and shall include the following information:

(A) The legal name of each applicant, a brief description of the legal organization of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

(B) If any applicant is a Missouri corporation, a Certificate of Good Standing from the secretary of state;

(C) If any applicant is a foreign corporation, a certificate from the secretary of state that it is authorized to do business in Missouri;

(D) If any applicant is a partnership, a copy of the partnership agreement;

(E) If any applicant does business under a fictitious name, a copy of the registration of the fictitious name with the secretary of state;

(F) If any applicant is a political subdivision, a specific reference to the statutory pro-

vision and a specific reference to any other authority, if any, under which it operates;

(G) If any applicant has submitted the applicable information as set forth in subsections (1)(B)–(F) of this rule in a previous application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

(H) A brief statement of the character of business performed by each applicant;

(I) Name, title, address and telephone number of the person to whom correspondence, communications and orders and decision of the commission are to be sent, if other than to the applicant's legal counsel;

(J) If any applicant is an association, a list of all of its members;

(K) A statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application;

(L) A statement that no annual report or assessment fees are overdue; and

(M) All applications shall be subscribed and verified by affidavit under oath by one (1) of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; if a corporation, by an authorized officer of the corporation; if a municipality or political subdivision, by an authorized officer of the municipality or political subdivision; or by the attorney for the applicant if the application includes or is accompanied by a verified statement that the attorney is so authorized.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

(3) If the purchaser under the provisions of 4 CSR 240-3.110, 4 CSR 240-3.115, 4 CSR 240-3.210, 4 CSR 240-3.215, 4 CSR 240-3.310, 4 CSR 240-3.315, 4 CSR 240-3.405, 4 CSR 240-3.410, 4 CSR 240-3.520, 4 CSR 240-3.525, 4 CSR 240-3.605 or 4 CSR 240-3.610 is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(4) In addition to the requirements of section (1), applications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which

may be waived, shall contain information as follows:

(A) Specific indication of the statute, rule or tariff from which the variance or waiver is sought;

(B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and

(C) The name of any public utility affected by the variance or waiver.

(5) A name change may be accomplished by filing the items below with a cover letter requesting a change of name. Notwithstanding any other provision of these rules, the items required herein may be filed by a nonattorney. Applications for approval of a change of name shall include:

(A) A statement, clearly setting out both the old name and the new name;

(B) Evidence of registration of the name change with the Missouri secretary of state; and

(C) Either an adoption notice and revised tariff title sheet with an effective date which is not fewer than thirty (30) days after the filing date of the application, or revised tariff sheets with an effective date which is not fewer than thirty (30) days after the filing date of the application.

(6) In addition to the general requirements set forth above, the requirements found in Chapter 3 of the commission's rules pertaining to the filing of various types of applications must also be met.

AUTHORITY: sections 386.250 and 386.410, RSMo 2000.* Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 3, 1987, effective May 1, 1987. Amended: Filed May 11, 1988, effective Aug. 11, 1988. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Aug. 16, 2002, effective April 30, 2003.

*Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.

State ex rel. Kansas City Transit, Inc. v. Public Service Commission, 406 SW2d 5 (Mo banc 1966). Commission is an administrative body of powers limited to those expressly granted by statute or necessary or proper to effectuate statutory purpose. Commission's authority to regulate does not

include right to dictate manner in which company conducts its business.

4 CSR 240-2.065 Tariff Filings Which Create Cases

PURPOSE: This rule establishes when a case shall be opened for a tariff.

(1) A general rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides, but shall not include requests for changes in rates made pursuant to an adjustment clause or other similar provisions contained in a utility's tariffs. When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) Except when the Commission orders the filing of a tariff, when a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

(3) When a pleading, which objects to a tariff or requests the suspension of a tariff, is filed, the commission shall establish a case file for the tariff and shall file the tariff and pleading in that case file. All subsequent pleadings, orders, briefs, and correspondence concerning the tariff shall be filed in the case file established for the tariff. Any pleading to suspend a tariff shall attach a copy of the tariff and include a certificate of service to confirm that the party who submitted the tariff has been served with the pleading.

(4) A case will not be established to consider tariff sheets submitted by a regulated utility

which do not meet the circumstances of sections (1)–(3) of this rule, except that a case shall be established when tariff sheets are suspended by the commission on its own motion or, when suspended, upon the recommendation of staff.

(5) When a public utility extends the effective date of a tariff, it shall file one (1) original, and eight (8) copies of a letter extending the tariff effective date in the official case file. Notwithstanding any other provision of these rules, this letter may be filed by a nonattorney.

AUTHORITY: section 386.410, RSMo Supp. 1998.* Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.

*Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.

4 CSR 240-2.070 Complaints

PURPOSE: This rule establishes the procedures for filing formal and informal complaints with the commission.

(1) The commission on its own motion, the commission staff through the general counsel, the office of the public counsel, or any person or public utility who feels aggrieved by a violation of any statute, rule, order or decision within the commission's jurisdiction may file a complaint. The aggrieved party, or complainant, has the option to file either an informal or a formal complaint.

(2) Informal Complaints. To file an informal complaint, the complainant shall state, either in writing, by telephone (consumer services hotline 1-800-392-4211, or TDD hotline 1-800-829-7541), or in person at the commission's offices—

(A) The name, street address and telephone number of each complainant and, if one (1) person asserts authority to act on behalf of the others, the source of that authority;

(B) The address where the utility service was rendered;

(C) The name and address of the party against whom the complaint is filed;

(D) The nature of the complaint, and the complainant's interest therein;

(E) The relief requested; and

(F) The measures taken by the complainant to resolve the complaint.



RSMo 1939, amended 1967, 1980; 393.240, RSMo 1939, amended 1967; 393.290, RSMo 1939, amended 1967; 394.160, RSMo 1939, amended 1979.

State ex rel. Southwestern Bell Telephone Co. v. PSC, 592 SW2d 184 (Mo. App. 1979). A declaratory judgment action under section 536.050, RSMo is not available to challenge the validity of a rule of the Public Service Commission, since a specific, exclusive statutory scheme for review of commission actions is contained in section 386.510, RSMo.

Jefferson Lines, Inc. v. Missouri Public Service Commission, 581 SW2d 124 (Mo. App. 1979). In 4 CSR 240-2.180 the commission provided by rule a method for attack on any of its own rules. A record could be made and if the commission ruled adversely to the petition, an appeal would lie under section 386.510, RSMo. Also, under section 536.031.5, RSMo this court takes judicial notice of the rules printed in the *Code of State Regulations*.

4 CSR 240-2.190 Hearings Under Rule-making

(Rescinded November 30, 1995)

AUTHORITY: section 386.410, RSMo 1986. Original rule filed Nov. 7, 1984, effective June 15, 1985. Rescinded: Filed March 10, 1995, effective Nov. 30, 1995.

4 CSR 240-2.200 Small Company Rate Increase Procedure

(Rescinded April 30, 2003)

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and read-opted: Filed Aug. 24, 1999, effective April 30, 2000. Rescinded: Filed Aug. 16, 2002, effective April 30, 2003.